Washington State Department of Transportation ESA Update October 1, 2001

AVAILABLE ONLINE AT:

http://www.wsdot.wa.gov/eesc/environmental/programs/biology/esa weekly/esaweekly.htm

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Items of Interest

3 Ecology Releases Stormwater Management Manual for Western WA

In September 2001, Ecology announced the release of its updated stormwater manual in response to state and federal regulations, including the Clean Water Act. The Washington State Department of Ecology (Ecology) Stormwater Management Manual is a tool for managing the detainment and treatment of precipitation conveyed to state waters by way of impervious surfaces such as rooftops and paved roads. The manual provides state regulations for stormwater treatment and guidance for applying the best available science to the design and application of stormwater best management practices (BMPs). Since 1992, when Ecology released its first stormwater management manual, water quality regulations have become more stringent. As well, more fish species have been added to the list of federally threatened or endangered species, thus creating additional emphasis for improved standards on the quality and quantity of stormwater discharged into the waters of Washington State.

Through advancements in the science of stormwater treatment, the manual sets new limits for stormwater quality and quantity and offers advanced design standards for the appropriate selection and application of BMPs. Major differences between the updated manual and its predecessor include:

- Thresholds for the selection of BMPs, allowing for the most appropriate sizing and placement of flow control and treatment BMPs, have been added.
- Fewer projects will require engineered structures, but all projects will be required to use appropriate BMPs.
- Additional, new BMPs have been added for construction sites and point source pollution prevention.
- Both increased peak flow and the duration of high flows will now be addressed for runoff flow control requirements. More sophisticated stormwater runoff models and the resulting construction of larger runoff control facilities will by required.
- The level of pollution removal and reduction from runoff to lakes and smaller streams will increase

Ecology developed the manual through coordination with 5 separate advisory committees representing over 100 contributors. Ecology has proposed to continue the coordinated approach by establishing a technical review committee that would evaluate new treatment technologies and maintain an updated list of approved treatment technologies.

For more information or to view the manual online go to: http://www.ecy.wa.gov/programs/wg/stormwater/index.html

For questions regarding implications of the new stormwater manual on WSDOT activities contact Ed Molash at: Molashe@wsdot.wa.gov.

SESA Update/ ESA Matrix Webpage Updated

Due to major changes made to the ESA Matrix, the WSDOT Environmental Affairs Office has updated the webpage that hosts links to the matrix. Due to the fact that the new ESA Matrix is located on the WSDOT internal Intranet server, a limited number of people are given access to the database in order to avoid overloading the server. The webpage has been changed to provide public access to the information contained within the system. From the updated webpage one may now find a contact in their region or at the ferry division to whom they can make inquiries regarding the status of projects being handled in that division. For cities, counties, and other local jurisdictions, a project status report will now be posted biweekly at this site.

To visit the updated site, please follow the hyperlink located beneath the title of this ESA Update.

For more information on the ESA Matrix see the April 16, 2001 ESA Update at: http://www.wsdot.wa.gov/eesc/environmental/programs/biology/esa_weekly/docs/esaweekly2001q2.pdf.

For questions or comments about the new ESA update/ ESA Matrix webpage, contact Noah Herlocker at: herlocn@wsdot.wa.gov

Washington State Department of Transportation ESA Update October 15, 2001

AVAILABLE ONLINE AT:

http://www.wsdot.wa.gov/eesc/environmental/programs/biology/esa_weekly.htm

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ESA Matrix Database Receives Functional Enhancements

ESA Update Moving to a Monthly Publication Schedule

Items of Interest

ESA Matrix Database Receives Functional Enhancements

The ESA Matrix is a tool used by WSDOT to communicate the order in which WSDOT needs projects to be reviewed due to their importance and availability of funding. The matrix also tracks the review status of biological assessments, sent in association with transportation projects, to federal resource agencies. As a new tool, users have identified system errors and offered suggestions for improving the matrix.

On October 1, 2001 members of the WSDOT Environmental Affairs Office met with staff from the WSDOT Office of Information Technology to discuss improvements that were needed for the ESA Matrix and to decide who would be assigned to work on those improvements. Throughout the course of the meeting, several issues were discussed and prioritized based on both process need and functionality of the ESA Matrix. The issues itemized at the meeting were the result of a collection effort that included input from WSDOT regions, Highways and Local Programs, and partnering federal agencies.

The Office of Information Technology quickly responded with an estimate of time needed to work on the repairs and improvements detailed at the October 1st meeting. A second meeting took place as a follow up on October 10, 2001. Some of the problems had already been fixed and others were investigated in greater detail. Based on the follow up meeting, the problems and improvements deemed most pressing were selected from the overall list and prioritized. Changes made through these efforts will result in an eventual redeployment of the ESA Matrix to all users. Redeployment is estimated to occur in late December or early January 2002.

For questions or comments about the ESA Matrix contact Noah Herlocker (Contact Information below).

ESA Update Moving to a Monthly Publication Schedule

Due to a decrease in the amount of pressing information related to the Endangered Species Act, the ESA Update will be moving to a monthly schedule. Publication may resume a bimonthly schedule in the future as needed. The ESA Update will now be delivered on the first Monday of every month.

Updates to the ESA Matrix, the priority and review status tracking program, will still occur biweekly between the National Marine Fisheries Service, the United States Fish and Wildlife Service, and WSDOT.

If you have questions, comments, or materials to submit for inclusion in the ESA Update, please contact Noah Herlocker at: herlocn@wsdot.wa.gov or (360) 705-7488

Washington State Department of Transportation ESA Update November 5, 2001

AVAILABLE ONLINE AT:

http://www.wsdot.wa.gov/eesc/environmental/programs/biology/esa weekly/esaweekly.htm

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WSDOT Delegated as Non-Federal Representative for EFH Consultations

The Federal Highways Administration (FHWA) has delegated the Washington State Department of Transportation (WSDOT) as its non-federal representative for essential fish habitat (EFH) abbreviated consultations and preparation of EFH assessments. This delegation is in accordance with the Magnuson-Stevens Act (MSA), 50 CFR 600.920 (c). FHWA, as the Federal action agency, remains ultimately responsible for compliance with sections 305(b)(2) and 305(b)(4) of the MSA. The MSA protects EFH for commercially harvestable fish species including groundfish, coastal pelagic species, and salmonids.

The EFH delegation is similar to FHWA's delegation of WSDOT as a non-federal representative for ESA consultations with NMFS and USFWS. The EFH consultations will generally be done in conjunction with the current ESA consultation process. EFH assessments will be submitted in coordination with biological assessments to NMFS for review.

For more information on the EFH delegation contact Paul Wagner at (360) 705-7406 or wagnerp@wsdot.wa.gov

Updated Stormwater Effects Guidance (IL 4020.01) Document Available Online

In August of 2001, an updated instructional letter (IL) was created to replace a previous, outdated version. The guidance document is used to assist transportation project planners in determining the likely affect of project related stormwater on species protected under the ESA. The current guidance document (IL 4020.01) replaces IL 4020. Online access has been provided for anyone wishing to view the updated Stormwater Effects Guidance via the Environmental Affairs Office, Endangered Species Act web page: http://www.wsdot.wa.gov/eesc/environmental/programs/biology/esa weekly/esa decisions.htm

At this time, IL 4020.01 is, itself, undergoing further revisions to reflect the recent release of the Washington Department of Ecology's *Stormwater Management Manual for Western Washington*. For information on the Stormwater Management Manual, see the October 1, 2001 edition of the ESA Update (available online at:

 $\underline{http://www.wsdot.wa.gov/eesc/environmental/programs/biology/esa_weekly/docs/esaweekly/2001q4.pdf)}.$

For more information on updates being made to the Stormwater Effects Guidance (IL 4020.01), contact Ken Stone at (360) 360 357- 2660 or stonek@wsdot.wa.gov.

USFWS Updates Western Washington Species List for New Candidates

The U.S. Fish and Wildlife Service (USFWS) has added seven Pacific Northwest species to its list of candidate species under the federal Endangered Species Act. The seven species are among those included in a revised national list released on October 30, 2001 by the agency. The updated list also includes new additions of Nevada and California species.

In addition, the notice includes 35 domestic animal and plant species that are already proposed for addition to the list of endangered and threatened wildlife and plants.

The Notice, last updated in October 1999, also informs the public as to which species the USFWS is considering proposing for protection, encourages conservation, and promotes development that accommodates the needs of candidate species.

A species is placed on the candidate list when there is sufficient information on biological vulnerability and threats to the species to warrant proposing to list it as endangered or threatened. USFWS then uses a formal priority system to determine which species will be proposed for listing first, granting highest priority to species in greatest need of protection.

When a species is given candidate status it does not necessarily mean that it will become listed as threatened or endangered, however, it does make such a listing for that species much more probable. The time period for a species to remain listed as a candidate varies greatly depending on the amount of research required, public comment received, and funding available.

The complete Candidate Notice of Review was published in the October 30, 2001 Federal Register: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2001_register&docid=01-26982-filed

For additional information contact Marion Carey at (360) 705- 7404 or careym@wsdot.wa.gov

For a copy of the updated species list for Washington State, send a request to Noah Herlocker at herlocn@wsdot.wa.gov

NMFS Anticipates Publication of Regional Road Maintenance ESA Program

The National Marine Fisheries Service (NMFS) has announced its anticipated publication schedule for placing the Regional Road Maintenance Endangered Species Act Program (Regional Program) in the Federal Register for public comment. It is anticipated the program will be in the Federal Register in November of this year. Once approved, the program will be available for local agencies throughout Washington State to adopt and receive a "take limit" under Section 4(d) of the Endangered Species Act (ESA).

In May 1999, the federal government listed the Puget Sound chinook salmon as "threatened" under the ESA. In December of that year, the bull trout was also listed as "threatened" in the Puget Sound region. In response to these listings, a coalition of local governments began a collaborative effort to develop a road maintenance program that would meet the requirements of the ESA.

Although originally a "Tri-County" (Puget Sound area) effort, the program quickly expanded to include the entire State of Washington. Counties and cities outside the Tri-County area, as well as the Washington State Department of Transportation joined the coalition. A Regional Road Maintenance ESA Forum (Regional Forum) was formed to work collaboratively with NMFS and the United States Fish and Wildlife Service (USFWS) to develop the Regional Program.

To assist local governments in implementing the program, the Regional Forum developed the *Regional Road Maintenance ESA Program Guidelines (Guidelines)*. The purpose of the *Guidelines* is to provide a consistent, Regional Program that can be used by any agency wishing to seek take limits under the 4(d) Rule. The Regional Program consists of the following three parts:

- 1. Regional Program Elements is the basic framework for the Regional Road Maintenance ESA Program. It includes ten program elements that make up the Regional Program. Implementation of all ten of the program elements is required for a local agency to obtain 4(d) take limits.
- **2. Best Management Practices** is a set of site-specific best management practices (BMPs) for road maintenance to achieve conservation outcomes identified in the *Guidelines*. Part 2 offers a menu of possible BMPs from which the most suitable method of maintenance activity can be selected.
- **3. Application** is an individual agency application for 4(d) take limits under the Regional Program. The Part 3 Application, known as the "plug-and play" part of the Regional Program, allows local agencies to "plug" into Parts 1 and 2 of the program to receive 4(d) take limits.

Agencies considering applying for a take limit under the Regional Program may contact one or more of the following:

Kathy Brown, Regional Forum Lead, at (206) 296-8138 or Kathy.brown@metrokc.gov

John Schnaderbeck, Regional Forum Co-Lead, at (253) 798-6295 or jschnad@co.pierce.wa.us

Roy Harris, Regional Forum Training Subcommittee Chair, at (425) 257-8893 or rharris@ci.everett.wa.us

Sandy Stephens, Regional Forum Biological Subcommittee Chair, at (360) 705-7853 or stephes@wsdot.wa.gov

Initial Bridge Scour Report Developed

The WSDOT Bridge Preservation Office (BPO), the Hydraulics Office, and the Environmental Affairs Office (EAO) have co-developed the first in a series of Bridge Scour Repair Reports. The purpose of these reports is to help streamline the delivery of WSDOT bridge scour repair projects. WSDOT staff involved in the development of the reports includes Harold Redman, BPO Scour Engineer, Rich Hovde, Hydraulics Engineer, and Gregor Myhr and Paul Wolf of EAO.

The overall objective of the Bridge Scour Reports is to improve Project delivery times by providing DOT Regional Staff and regulatory agencies with the necessary information to effectively review and issue permits for bridge scour repair projects. Important information discussed in the reports includes:

- Scour analysis for demonstrating project necessity to regulatory agencies
- Recent and thorough stream channel and scour survey information
- Repair design selection criteria
- Repair design alternative analysis
- Measures to minimize and avoid environmental impacts
- Stream channel/fish habitat impact analysis
- Discussion on the anticipated need for compensatory mitigation

Partnering efforts have been established between WSDOT and the Washington Department of Fish and Wildlife to create agreed upon analyses and methodologies included in these reports that will reduce the time frame typically associated with obtaining HPA permits

There are approximately 360 bridges, statewide, that are on the scour critical list. Scour Critical means that the bridge is prone to failure during a high flood event. Of these bridges, 28 are slated to have Bridge Scour Repair Reports completed and submitted to DOT Regions by the end of February 2002.

The Bridge Scour Report is considered an evolving document and WSDOT will be promoting interagency discussions to continue establishing agreed upon information and methodologies in the Report.

For more information about the reports, contact Paul Wolf at 360-570-2564 or wolfp@wsdot.wa.gov

Washington State Department of Transportation ESA Update December 3, 2001

AVAILABLE ONLINE AT:

http://www.wsdot.wa.gov/eesc/environmental/programs/biology/esa weekly/esaweekly.htm

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Items of Interest

Pygmy Rabbit Given Emergency ESA Listing

The U.S. Fish and Wildlife Service (USFWS) has ruled to emergency list the Columbia Basin distinct population segment of the pygmy rabbit (*Brachylagus idahoensis*) as endangered. This emergency rule became effective immediately on November 30, 2001, and expires July 29, 2002. This population segment consists of a single, wild colony totaling fewer than 50 individuals in Douglas County, Washington and a small captive population.

The USFWS has found that the Columbia Basin pygmy rabbit is imminently threatened by a recent significant decrease in population that has caused it to be susceptible to the combined influence of catastrophic environmental events, habitat or resource failure, disease, predation, and loss of genetic heterogeneity. The rabbit was emergency listed to afford the species immediate protection under the Act. The emergency rule provides federal protection pursuant to the Act for a period of 240 days. A proposed rule to list the Columbia Basin pygmy rabbit as endangered was published concurrently with the emergency rule in the proposed rule section of the November 30, 2001 Federal Register. That notice can be found online at: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2001 register&docid=01-29615-filed.pdf.

Biological assessments and related reports reflecting project work occurring in Douglas County, Washington will need to address potential impacts to pygmy rabbits.

For further information contact Christopher Warren, primary author of this emergency rule, Upper Columbia Fish and Wildlife Office, at (509) 891-6839 or chris warren@fws.gov.

At WSDOT, general ESA-related questions, including questions about the pygmy rabbit, can be made to Marion Carey at (360) 705-7404 or <u>Careym@wsdot.wa.gov</u>.

Liaison Program News

Three resource agency liaisons have recently left the program to pursue new career opportunities. Tom Gibbons, National Marine Fisheries Service (NMFS) liaison, accepted a job with the Department of Ecology as a hydrogeologist in the Environmental Assessment Section. His last day at NMFS was October 31st. Terra Hegy, Washington Department of Fish and Wildlife (WDFW) liaison, accepted a Habitat Program position with WDFW, effective December 1st. And Joel Moribe, another NMFS liaison, accepted a permanent job at NMFS, effective January 2nd. Joel's work will continue to focus on the northwest portion of Washington state, and he expects to continue to review WSDOT projects, although not exclusively. WSDOT wishes Tom, Terra, and Joel much success in their new positions, although we are sorry to lose them from the liaison program.

With Tom and Joel both leaving NMFS, in addition to a previously existing vacancy, WSDOT now has a total of three liaison positions currently open. WSDOT's Liaison Program is working with Ecology and NMFS to use both the ES-4 and the Fish and Wildlife Biologist 4 registers to recruit qualified replacements as quickly as possible. The program is also working with WDFW to refill Terra Hegy's position.

For more information on Liaison Program activities contact Gloria Skinner at (360) 705-7494 or SkinnerG@wsdot.wa.gov

WSDOT Stormwater Guidance Under Revision

Instructional letter (IL) 4020.01, issued in August 2001, is being revised. Preliminary review of the guidance document determined that it needed to be updated for the following reasons:

- To clarify the purpose of the IL
- To correct references and other errors in the document
- To eliminate duplicative language and documents
- To eliminate appendices and attachments that are no longer relevant
- To reflect adoption of the new Ecology stormwater manual and current plans for revision of the Highway Runoff Manual (HRM)
- To incorporate a separate design guidance for Highways and Local Programs projects
- Overall, to improve the clarity of the IL and make it more useful, since it will be in effect for approximately another 1 1/2 years.

These changes, necessary for a document released 3 months ago, are a testament to the pace at which the stormwater policy environment is changing. The current IL 4020.01 is available online at:

http://www.wsdot.wa.gov/fasc/EngineeringPublications/Manuals/4020.pdf

The revised IL is now being reviewed by the WSDOT Stormwater Rapid Response Team and other WSDOT staff. It is expected that the revision will be complete in January 2002.

For further information on the status of the IL 4020.01 revision, contact Ken Stone at (360) 357-2660or StoneK@wsdot.wa.gov.

NPDES Industrial and Construction Permit Guidance

Due to the recent appeal to NPDES industrial and construction permits (September 4, 2001 ESA Update), WSDOT is developing guidance for construction projects. The appeal claims that the Washington Department of Ecology's general permits do not adequately protect 303d listed water bodies. A stay has been issued precluding coverage under the general permit until the case is resolved. The guidance under development is applicable to projects applying for and using general permits, generally those that involve five (5) or more acres of land disturbance (clearing, grading and grubbing).

For further information on the status of the guidance, contact Richard Tveten at (360) 570-6648 or TvetenR@wsdot.wa.gov.

WSDOT Releases Washington Transportation Plan

The review draft of Washington's Transportation Plan (WTP) 2003-2022 is now available for public comment. The Washington State Transportation Commission approved the updated draft WTP for distribution during its November 14 meeting in Olympia. The current public comment period is the final phase of an extensive public involvement process. Chapters 5 and 6 of the WTP include sections that describe WSDOT's commitment to planning with the environment in mind. Environmental objectives relating to ESA include "maintain habitat and watershed connectivity" and "maintain water quality". The Commission is scheduled to adopt the final WTP on January 17, 2002. The draft document and comment forms are now available online at: http://www.wsdot.wa.gov/ppsc/wtp/

Comments and questions can also be mailed to:

WSDOT Transportation Planning Office 310 Maple Park Ave SE PO Box 47370 Olympia WA 98504

Regional Maintenance Manual Publication Status Update

The Regional Road Maintenance Endangered Species Act Program (Regional Program), described in the November 5, 2001 ESA Update, is scheduled to be published by the National Marine Fisheries Service (NMFS) by December 7, 2001 in the Federal Register.

The Regional Program offers a new way of applying 4(d) to local programs. This is causing NMFS difficulty with some of the implementation language.

Once approved, the program will be available for local agencies throughout Washington State to adopt and receive a "take limit" under Section 4(d) of the Endangered Species Act (ESA).

For more information about the Regional Program, see the November 5, 2001 ESA Update available online at:

 $\underline{http://www.wsdot.wa.gov/eesc/environmental/programs/biology/esa_weekly/docs/esaweekly/2001q4.pdf}$

Last Update for 2001

Another year is nearly gone. Over the course of the last year the ESA Update has covered some significant issues and seen some major accomplishments made by WSDOT in response to the ever-growing list of federally protected species and increased water treatment regulations. The year 2001 saw the Columbia Basin Pygmy rabbit distinct population segment (DPS), critical habitat for the Wenatchee Mountains checker mallow, and Spalding's catchfly, become listed for federal protection under the ESA. In addition, the following species became candidates for an ESA listing:

- Coastal cutthroat trout DPS (proposed)
- Showy Stickseed (proposed)
- Western sage grouse
- Yellow-billed cuckoo
- Washington ground squirrel (has completed partial review and priority is high)
- Dolly Varden (Proposed Similarity of Appearance to a Threatened Taxon)

WSDOT has a clear need to constantly improve its biological and hydrologic expertise resources in order to deal with this steady increase in workload and commitment. Over the last year, the agency has responded to this need with:

ESA related trainings –

- Introductory class on understanding the ESA in relation to transportation projects
- Endangered and threatened plant identification field training.
- Temporary Erosion and Sediment Control field trainings

Programmatic Biological Assessments (PBA)

- Olympic Region PBA approved in 1999. Currently under revision to include updated bull trout and cutthroat trout information.
- Western Washington PBA in at USFWS. The Biological Opinion (BO) is expected in December 2001.

- Eastern Washington PBA revised version in at USFWS. BO expected in conjunction or after Western Washington PBA BO.
- Aquatic PBA draft submitted for NMFS review in November of 1999. Currently on our third revision.

Guidance documents –

- Stormwater Instructional Letter
- Indirect Effects Guidance
- Bridge Scour Report Guidance
- 2001 Environmental Procedures Manual
- Regional Road Maintenance ESA Program
- Final draft of the Integrated Streambank Protection Guidelines

Partnering conferences –

• Floodplain management conference

ESA Consultation Status Tracking Program (the ESA Matrix) –

- Initial program developed
- Regional staff and Partnering resource agency staff trained to use program
- Functional enhancements incorporated in new version

In addition, WSDOT has been delegated for Essential Fish Habitat consultations by the Federal Highways Administration.

Stormwater was another issue that received much attention over the past year. The Department of Ecology released their updated *Stormwater Management Manual for Western Washington* creating new standards for the treatment of stormwater quality and quantity. In anticipation of these new standards, WSDOT updated the water quality section of its Environmental Procedures Manual, also released this year. In addition, WSDOT's Environmental Affairs Office, in collaboration with the Hydraulics Office, developed a guidance document for determining the amount of stormwater treatment necessary for making various ESA-related effect calls. This document is currently being revised (see *WSDOT Stormwater Guidance Under Revision* above).

In April of 1999, several salmonid species became federally protected under the ESA (listed) by the National Marine Fisheries Service (NMFS). The listing of these salmonids has drastically affected WSDOT project activities due to the resulting increases in federally protected aquatic habitat. As of April 2001, 2 years later, the total amount of projects submitted to NMFS by WSDOT Regions, Ferries, and Highways and Local Programs totaled 1106. Of these, 955 projects were either given concurrence by NMFS or were determined to have no effect on listed species and, thus, did not need to enter into consultation. The remaining 151 projects were pending review, in review, or waiting on additional information. Since April 2001 the summary of transportation projects in review has become a function of the new ESA Matrix. The summary capabilities of the matrix are still being developed.

For a personal review of the events that have taken place so far throughout 2001, as seen by the ESA Update, visit the ESA Update website where all past issues are archived. Issues

are stored quarterly in Acrobat Reader using bookmarks to make finding a particular article of interest simple. A link to that website is always included beneath the title of the ESA Update.

For general questions about the ESA Update contact Noah Herlocker at (360) 705-7488 or herlocn@wsdot.wa.gov

Thank you!

I'd like to take a moment to thank the contributors to the ESA Update for keeping readers informed by sharing information in a timely fashion. The articles summarize a lot of hard work on your part to keep projects moving and are appreciated by many. This includes contributors from WSDOT, local government, USFWS, and NMFS. As well, many thanks to Noah Herlocker for gathering and compiling information and prompting the editor to keep things moving. And thanks to Tanya Johnson for posting information to the website so that readers have rapid access and archival information. The Update wouldn't have happened this year without your collective help – thank you.

Happy and safe holidays to our contributors and readers

Cohoho!

The Editor